

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
August 7, 2023

The city council met in regular session Monday, August 7, 2023 in the council chambers at city hall. Council President Schmidt called the meeting to order at 7:00 P.M. with the Pledge of Allegiance.

Council members present: Nathan Schmidt, Bryce Curtiss, Steve Sulflow, Beverly Olson and Dan Sanborn. Absent: None. Mayor Erich Winter present.

Also present: City Manager Robert Wolfington, City Engineer Mike Amborn, City Attorney Janice Nelson and City Clerk Glennis Lauritsen.

It was moved by Sulflow, seconded by Olson and unanimously passed to approve the agenda, with the following modifications:

ADD: 4A) APPEARANCE BY CHIPPEWA COUNTY SHERIFF DEREK OLSON TO DISCUSS NEW CANNABIS LAW.

- Copy of (sample) county ordinance provided.

MODIFY: 5A) CONSIDER APPROVAL OF VERIFIED CLAIMS FOR THE PERIOD ENDING AUGUST 3, 2023 IN THE AMOUNT OF ~~\$1,936,304.14~~ \$1,992,078.85.

The revised list reflects the following additions:

AIRPORT

Short Elliott Hendrickson, Inc. - REIL Replacement \$ 3,390.00

LEGAL

Nelson Oyen Torvik - Legal services/July 9,315.00

MISCELLANEOUS

Dana Cole & Company, LLP - 2022 Audit 30,596.73

Farmer's Union Oil Company - Motor fuels, etc. 9,078.44

POOL

Hawkins, Inc. - Chemicals 1,875.36

UTILITY

Innovative Systems - Utility bills and postage 1,519.18

MODIFY: 7A) CONSIDER RESOLUTION DIRECTING THE ABATEMENT OF A NUISANCE AT 213 SOUTH 6TH STREET AND OWNED BY OLGA ESPERANZA ULLOA RAMOS, ETAL.

- Revised resolution provided to name all owners and to add specific/descriptive information to Page 2, Item 2 as advised by the city attorney.

MODIFY: 7B) CONSIDER RESOLUTION DIRECTING THE ABATEMENT OF A NUISANCE AT 103 SOUTH 8TH STREET AND OWNED BY STEPHEN J. BRACE.

- Revised resolution provided to add specific/descriptive information to Page 2, Item 2 as advised by the city attorney.

MODIFY: 8A) CONSIDER ORDINANCE AMENDING TITLE 7 OF THE MONTEVIDEO CITY CODE BY ADDING A CHAPTER 8 - PUBLIC PLACES.

Revised/complete copy of ordinance attached. (Page 2 was inadvertently omitted from the original agenda materials.)

MODIFY: 9A) DISCUSSION - MOSQUITO SPRAYING.

Written information provided from Jason Scott, Specialty Area Manager, VanDiest Supply.

It was moved by Sanborn, seconded by Olson and unanimously passed to approve the minutes of the Regular Meeting of July 17, 2023 and Budget Worksession of July 31, 2023, as presented.

4. Notices/Communications/Announcements or Appearance of Interested Citizens.

- Chippewa County Sheriff Derek Olson was present to discuss the new cannabis law. Beginning 8/1/23, reservations are now allowed to sell cannabis products. The timeline for manufacture/distribution is 2025. The county is being proactive in its efforts to understand the laws and to develop tools to help with enforcement measures and to meet

with city officials and others in this effort. The two biggest concerns surrounding the new cannabis law is public safety and licensing/zoning. For the size of Chippewa County, the state requires at least one dispensary; however, the county can allow more and is having discussions on that topic. The deadline for licensing is one year out, so there is some time to develop those guidelines.

Olson had provided the council with a sample (county) ordinance regulating the use of cannabis and cannabis derived products in public places. The council had on its agenda a similar ordinance for discussion purposes (see Item 8A). The county's ordinance was written from a public safety perspective; the city's ordinance was written from a public nuisance perspective. City Attorney Nelson suggested the city introduce its ordinance and then have staff review/compare the two ordinances which would allow for further discussion and possible modifications prior to any final adoption.

5. Consent Agenda.

It was moved by Curtiss, seconded by Sanborn and unanimously passed to approve the following consent agenda items:

- 5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING AUGUST 3, 2023 IN THE (MODIFIED) AMOUNT OF \$1,992,078.85.
- 5(B) SALE OF SEIZED/SURPLUS ITEMS BY THE POLICE DEPARTMENT (2005 GMC ENVOY | 2006 LINCOLN NAVIGATOR | 2000 FORD EXPEDITION | 2009 KIA SEDONA | 2008 HYUNDAI ACCENT.)
- 5(C) APPLICATION FROM THE CHURCH OF ST. JOSEPH, 512 BLACK OAK AVENUE, FOR USE OF CITY PROPERTY (6TH STREET & EUREKA AVENUE) IN CONJUNCTION WITH ITS FALL FESTIVAL ON SUNDAY, SEPTEMBER 17, 2023, 10:00 A.M. - 2:00 P.M.
- 5(D) REQUEST FROM THE REFUGE CHURCH, 1117 BENSON ROAD, FOR USE OF THE CITY-OWNED VACANT LOT ACROSS BENSON ROAD TO THE EAST OF THE CHURCH ON SUNDAY, SEPTEMBER 17, 2023, 3:00-6:00 P.M. FOR A "FAMILY FUN NIGHT."

6. Public Hearings.

- None.

7. General Business.

To accommodate staff present, Item 7(C) was moved forward for consideration.

7(C) BID AWARD - WWTP AERATION BLOWER.

Bids were received until 2:00 P.M. Wednesday, July 12, 2023 for the 2023 Aeration Basin Blower Improvements at the wastewater treatment plant. Major components of the work include demolition of existing electrical and controls for one blower, removal of two existing blowers and installation of a new blower and associated electrical and controls. Only one bid was received in the amount of \$462,400.00. The engineer's estimate for the project was \$261,185.06. To determine the reason for the extreme difference, staff worked with the engineer (SEH). That information was provided in an email to the utilities superintendent dated 8/2/23. The major difference occurred within the electrical work which had been estimated by SEH at \$59,105 and bid at \$205,800.

Utilities Superintendents Byron Hayunga and Ryan Gallagher were present to address questions/concerns raised. Even though the project exceeds the engineer's estimate, staff's opinion was that this is a necessary piece of equipment, the scope of the electrical portion of the bid was consistent with the request and the general price increase was most likely due to changes in the market. Therefore, staff recommended accepting the bid from Rubin Construction, LLC in the amount of \$462,400, with the project paid for by funds set aside within the Utilities Capital Improvement Fund.

It was moved by Curtiss, seconded by Sanborn and unanimously passed to accept the bid from Rubin Construction, LLC, in the amount of \$462,400, as presented.

Hayunga reminded the council that as a part of the current agreement for water/wastewater services with the City of Watson, they would be paying their fair share of this project in 2024.

The order of the agenda resumed, as printed.

7(A) NUISANCE ABATEMENT - 213 SOUTH 6TH STREET.

A series of letters were sent to the property owner of 213 South 6th Street which identified nuisance items that needed abatement, specifically referring to miscellaneous junk/debris/trash present on the property (indoor furniture and appliances [refrigerator] outdoors.) Each letter asked that the property owner clean-up/remove the materials. No action was

taken to correct the deficiencies and, therefore, by letter dated July 19, 2023, the property owner was informed that at its August 7th meeting, the Montevideo City Council would consider a resolution directing the abatement of the nuisance.

STEVE SULFLOW OFFERED RESOLUTION NO. 3873, A RESOLUTION DIRECTING ABATEMENT OF NUISANCE BY PROPERTY OWNER, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3873 WAS SECONDED BY BEVERLY OLSON. THOSE VOTING IN FAVOR OF MOTION: STEVE SULFLOW, BEVERLY OLSON, DAN SANBORN, BRYCE CURTISS AND NATHAN SCHMIDT. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(B) NUISANCE ABATEMENT - 103 SOUTH 8TH STREET.

A series of letters were sent to the property owner of 103 South 8th Street which identified nuisance items that needed abatement, specifically referring to miscellaneous junk/debris present on the property by the garage. Each letter asked the property owner to clean-up/remove the items. No action was taken to correct the deficiencies and, therefore, by letter dated July 21, 2023, the property owner was informed that at its August 7th meeting, the Montevideo City Council would consider a resolution directing the abatement of the nuisance.

BRYCE CURTISS OFFERED RESOLUTION NO. 3874, A RESOLUTION DIRECTING ABATEMENT OF NUISANCE BY PROPERTY OWNER, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3874 WAS SECONDED BY BEVERLY OLSON. THOSE VOTING IN FAVOR OF MOTION: BRYCE CURTISS, BEVERLY OLSON, STEVE SULFLOW, DAN SANBORN AND NATHAN SCHMIDT. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(C) BID AWARD - WWTP AERATION BLOWER.

This item was considered previously (see page 4).

7(D) SALE OF LAND TO WINTER FAMILY ENTERPRISES, INC.

At the July 17, 2023 meeting, the council had made a motion to move forward with the sale of a 25' x 14' portion of Parcel ID #70-275-0128 adjacent to the new section of the Millennium Theater in Southtown Plaza to Winter Family Enterprises, Inc. A value of

\$2.08/square foot was determined by the Chippewa County Assessor's Office, for a total purchase price of \$728.00. A resolution and accompanying Memorandum Purchase Agreement had been prepared by the city attorney and was presented to the council for consideration. It was noted that a legal description for the parcel has not yet been developed but will be included in the final documents.

STEVE SULFLOW OFFERED RESOLUTION NO. 3875, A RESOLUTION AUTHORIZING SALE OF REAL ESTATE (CONTINGENT UPON THE DEVELOPMENT OF A LEGAL DESCRIPTION), AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3875 WAS SECONDED BY BEVERLY OLSON. THOSE VOTING IN FAVOR OF MOTION: STEVE SULFLOW, BEVERLY OLSON, DAN SANBORN, BRYCE CURTISS AND NATHAN SCHMIDT. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(E) FIESTA CITY LIQUOR STORE LEASE AGREEMENT.

The Lease Agreement with JJ Holdings, LLC for the Fiesta City Liquor Store space expired 7/31/23. Staff negotiated a new lease, which was presented to the council for consideration. The new lease is a five-year lease to July 31, 2028. Base rent has increased from \$3,311.45/month to \$6,000.00/month for the entire five-year lease period (no annual percentage increases as in the previous lease). Proposed additional expenses would include 25% of building expenses and 25% of real property taxes/special assessments.

Council voiced concern over the substantial increase in base rent and the additional expenses element. Options were discussed, including reducing the term of the lease from 5 years to 2 or 3 years to insure that building improvements are completed, and to see whether a lesser term would result in less monthly base rent. There was the reverse concern that if a three-year term were agreed to, it was possible that the base rent after the three-year term would be raised even higher than the proposed five-year term of \$6,000/month.

After discussion, it was moved by Curtiss and seconded by Sanborn to approve the Lease Agreement with JJ Holdings, LLC, as presented, and encourage staff to begin exploring future options for the municipal liquor store. Those voting in favor of motion: Curtiss, Sanborn, Olson and Sulflow. Those voting against motion: Schmidt. Motion passed 4-1.

7(F) FAA GRANT/T-HANGAR RENOVATION PROJECT.

Federal Offer/Grant Agreement No. 3-27-0065-023-2023 was presented for consideration. The agreement would provide funding assistance to renovate an existing t-hangar at the Montevideo-Chippewa County Airport, with a 90/10 split for the FAA/local match. Total estimated cost of the project is \$143,575.00, with FAA participation at \$129,217.50, state participation at \$7,178.75 and local participation at \$7,178.75 (split equally between city and county). This agreement is one of two FAA grants for the project.

STEVE SULFLOW OFFERED RESOLUTION NO. 3876, A RESOLUTION APPROVING GRANT AUTHORIZATION (ROBERT WOLFINGTON AS AUTHORIZED OFFICIAL), AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3876 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: STEVE SULFLOW, BRYCE CURTISS, DAN SANBORN, BEVERLY OLSON AND NATHAN SCHMIDT. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

DAN SANBORN OFFERED RESOLUTION NO. 3877, A RESOLUTION AUTHORIZING EXECUTION OF FAA GRANT AGREEMENT 3-27-0065-023-2023 FOR AIRPORT T-HANGAR RENOVATION IMPROVEMENT PROJECT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3877 WAS SECONDED BY STEVE SULFLOW. THOSE VOTING IN FAVOR OF MOTION: DAN SANBORN, STEVE SULFLOW, BEVERLY OLSON, BRYCE CURTISS AND NATHAN SCHMIDT. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

8. Ordinances.

8(A) CANNABIS USE IN PUBLIC PLACES.

With recreational marijuana becoming legal in Minnesota August 1, 2023, staff worked with the city attorney to develop an ordinance that would prohibit cannabis use in public places. The ordinance defines “public place,” “smoke/smoking,” provides that use in public places is unlawful and the penalty therefore.

City Attorney Nelson briefly discussed the differences between this language and the county's sample language provided earlier in the meeting, as well as State Statute governance.

FOLLOWING DISCUSSION, DAN SANBORN INTRODUCED ORDINANCE NO. 982, AN ORDINANCE AMENDING TITLE 7 OF THE MONTEVIDEO CITY CODE BY ADDING A CHAPTER 8, PUBLIC PLACES, WITH THE ELEMENT OF "EDIBLES" BEING ADDED TO THE LANGUAGE.

8(B) CANNABIS USE AS PUBLIC NUISANCE.

To further assist the city in regulating the use of cannabis within the community, an ordinance was drafted to add language to the nuisance section of City Code. Subsection J was added to 4-1-2.1 - PUBLIC NUISANCES AFFECTING HEALTH - to address adult-use the cannabis flower or other cannabis products.

DAN SANBORN INTRODUCED ORDINANCE NO. 983, AN ORDINANCE AMENDING SECTION 2 OF CHAPTER 1 OF TITLE 4 OF THE MONTEVIDEO CITY CODE, PUBLIC NUISANCES AFFECTING HEALTH.

9. Discussion and Miscellaneous.

9(A) DISCUSSION - MOSQUITO SPRAYING.

To aid in the discussion, the council had been provided with written information from Jason Scott, Specialty Area Manager|Minnesota with Van Diest Supply Company, Bloomington, MN. The information gave a brief background of ultra low volume (ULV) spraying, addressed weather and timing and when/best time to spray.

Council member Curtiss discussed the processes (timing/frequency), encouraged city staff to be proactive in its spraying efforts and to consider providing additional/extra spraying for special events/occasions.

No action taken.

- City Engineer Amborn summarized the pre-construction meeting with Duininck, Inc., contractor for the 2023 Street Project, stating that work is slated to begin in early September with a completion date of October 15th.

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- Mayor Winter asked for help from citizens in finding those responsible for the offensive graffiti that recently appeared on a number of downtown properties. He encouraged the community to submit information to the police department.
- Council President Schmidt congratulated the Jr. Legion baseball team for its state championship runner-up accomplishment.

Meeting adjourned at 8:03 P.M.

Glennis A. Lauritsen, Secretary

Approved by council August 21, 2023:

President - City Council